

United States Government

Department of Energy

# memorandum

DATE: June 20, 2001

REPLY TO

ATTN OF: Office of Environmental Policy and Guidance: Boulos: 6-1306

SUBJECT:

INFORMATION-RECENT CLEAN AIR ACT-RELATED FEDERAL REGISTER  
NOTICES: April 2001 to May 2001

TO:

Distribution

EH-412 has been routinely distributing material on Environmental Protection Agency (EPA) clean air-related Federal Register (FR) notices not otherwise transmitted to program and field offices in order to make the Departmental complex aware of information that may be of relevance to its operations. Attached are summaries of clean air-related FR notices published during the period April 2001 to May 2001.

If you have any questions concerning these notices, please contact Mr. Emile Boulos of my staff at: [emile.boulos@eh.doe.gov](mailto:emile.boulos@eh.doe.gov); 202-586-1306.

(original was signed by A. Wallo)  
Andrew Wallo III  
Director  
Air, Water and Radiation Division

Attachment

## ATTACHMENT

### CLEAN AIR ACT-RELATED FEDERAL REGISTER (FR) NOTICES PUBLISHED DURING THE PERIOD APRIL 2001 TO MAY 2001

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- **DIRECT FINAL RULE: 40 CFR PART 60,"AMENDMENTS TO STANDARDS OF PERFORMANCE FOR ELECTRIC STEAM GENERATING UNITS FOR WHICH CONSTRUCTION IS COMMENCED AFTER SEPTEMBER 18, 1978; STANDARDS OF PERFORMANCE FOR INDUSTRIAL-COMMERCIAL-INSTITUTIONAL STEAM GENERATING UNITS", (66 FR 18546; APRIL 10, 2001).**

On April 10, 2001, the Environmental Protection Agency (EPA) issued a direct final rule to amend the emissions monitoring and compliance provisions contained in Subpart Da-Standards of Performance for Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978, and Subpart Db-Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. This action adds monitoring exemptions and alternative compliance requirements for duct burners, as well as amendments to correct errors in the 40 CFR Part 60, Subparts Da and Db.

The amendments will ensure that all owners or operators of duct burners have similar compliance requirements and exemptions for their monitoring requirements. This direct final rule will: extend the existing monitoring exemption for duct burners in Subpart-Db to include those duct burners that become subject to the revised nitrous oxide New Source Performance Standards (NSPS) for boilers; amend Subpart-Da to include the same monitoring exemption specified in Subpart-Db; promulgate an alternative compliance determination procedure for both Subparts Da and Db that owners and operators can elect for affected duct burners used in combined cycle systems; and clarify the intent and correct inadvertent omissions and minor drafting errors in the revised nitrous oxide NSPS for boilers.

The changes contained in this direct final rule are corrections, clarifications, and equivalent compliance alternatives that do not change the intended coverage of the revised nitrous oxide NSPS for NSPS boilers. The changes will not affect the estimated emissions reductions or the control costs for these rules. The clarifications and corrections should make it easier for owners and operators of duct burners and for local and State authorities to understand and implement the requirements in Subparts Da and Db. The alternative compliance procedures

will make it possible for some owners and operators of boilers (including duct burners) to comply with performance testing and monitoring.

- **NOTICE: "DENIAL OF A PETITION TO DELIST METHANOL FROM THE LIST OF HAZARDOUS AIR POLLUTANTS", (66 FR 21929; MAY 2, 2001).**

On May 2, 2001, the EPA announced a decision to deny a petition from the American Forest and Paper Association requesting that EPA remove the chemical methanol (CAS No. 67-56-1) from the list of hazardous air pollutants (HAP) in section 112(b)(1) of the Clean Air Act (CAA). Delisting of a substance from the HAP list is permitted under section 112(b)(3) of the CAA. The EPA decision was based on the examination of the available information concerning the potential hazards of and projected exposures to methanol emissions. EPA determined that the appropriate health-based criterion for evaluating the risks associated with methanol emissions is in the range of 0.3 to 30 milligrams per cubic meter.

EPA's review of the petitioner's exposure assessment concluded that the criteria for removing a substance from the list of HAP have not been met. Therefore the petition must be denied. Moreover, any future petition for the removal of methanol from the list of HAP will be denied as a matter of law unless substantial new information or analysis accompanies such future petition.

- **FINAL RULE: 40 CFR PARTS 63 AND 270, IMPLEMENTATION OF COURT ORDERS, "NESHAPS: STANDARDS FOR HAZARDOUS AIR POLLUTANTS FOR HAZARDOUS WASTE COMBUSTORS", (66 FR 24270; MAY 14, 2001).**

On May 14, 2001, EPA issued a final rule implementing the July 25, 2000 court decision in Chemical Manufacturers Association v. EPA, 217 F.3d 861 (D.C. Cir. 2000). The rule was effective as of May 14, 2001. The July 25, 2000 court decision can be accessed at:

<http://pacer.cadc.uscourts.gov/common/opinions/200007/99-1236a.txt>.

In the decision, the U.S. Court of Appeals for the District of Columbia Circuit vacated portions of Part I of the Phase I hazardous waste combustor (HWC) rule at 40 CFR 63 Subpart EEE. In particular, the court vacated those portions of the Part I rule that required HWC owner/operators to: (1) cease burning hazardous waste two years after the effective date of the maximum achievable control technology (MACT) emission standards (i.e., on or before October 1, 2001) if the owner/operator did not intend to comply with the MACT emission standards, (2) prepare a progress report and submit it to EPA or the authorized State on or before October 1, 2000 if the owner/operator intended to comply with the MACT emission standards, and (3) submit a notification of intent (NIC) to comply no later than October 2, 2000 to the applicable permitting agency stating whether

the owner/operator intended to comply with the MACT emission standards. EPA's May 14, 2001 action removed these vacated provisions from the Code of Federal Regulations.

The basis for the court's decision was its finding that the early cessation program would not have demonstrated environmental or health benefits because hazardous wastes from HWCs that will close will continue to be combusted at other HWCs. The decision did not affect the requirement at 40 CFR 63.1206(a)(1) that owner/operators of affected facilities must comply with the 40 CFR 63 Subpart EEE emission standards no later than September 30, 2002. Thus, under the decision, DOE facilities subject to the Subpart EEE emission standards that will not be upgraded to meet the standards can continue to burn hazardous waste up to September 30, 2002, but must cease burning on that date.

EPA's May 14, 2001 action also removed two provisions from the HWC rule that required sources to establish and monitor limits on the following parameters for electrostatic precipitators (ESPs) and baghouses for compliance assurance: (1) minimum power (kVA) per field of an ESP; and (2) minimum and maximum pressure drop for each cell of a baghouse [see 40 CFR 63.1209(m)(1)(ii) and (iii)].

Finally, the May 14, 2001 action clarified language in a regulation implementing the Resource Conservation and Recovery Act (RCRA) at 40 CFR 270.42(j)(1) to reference the version of 40 CFR 63.1210 that was in effect prior to July 1, 2000, and published in "40 CFR Part 63 Revised as of July 1, 2000." Owner/operators that want to use the streamlined RCRA permit modification process to modify their existing RCRA permit must have complied with the NIC provisions as specified in the now-vacated 40 CFR 63.1210(b).

Additional information regarding the HWC rule and the court decision is available in an Office of Environmental Policy and Guidance memorandum at:  
<http://homer.ornl.gov/oepa/guidance/caa/combustorupdate.pdf>.

- **FINAL RULE: 40 CFR PART 70, "REVISION TO INTERIM APPROVAL REQUIREMENTS", (66 FR 27007; MAY 15, 2001).**

On May 15, 2001, the EPA issued a final rule to amend regulations governing the interim approval of State and local operating permits programs. This action removes the provisions that allow the Agency to extend expiration dates of interim approvals beyond two years from the date the interim approval is originally granted.

- **PROPOSED RULE: 40 CFR PARTS 52 AND 81, "CLEAN AIR ACT RECLASSIFICATION, SAN JOAQUIN VALLEY NONATTAINMENT AREA; DESIGNATION OF EAST KERN NONATTAINMENT AREA AND EXTENSION OF ATTAINMENT DATE; CALIFORNIA; OZONE", (66 FR 27616; MAY 18, 2001).**

On May 18, 2001, EPA issued a proposed rule to change the boundary for the San Joaquin Valley (SVJ) serious ozone nonattainment area by separating out the eastern portion of Kern County into its own nonattainment area. EPA also proposed to extend the attainment deadline for the new East Kern serious ozone nonattainment area from November 15, 1999 to November 15, 2001.

On June 19, 2000, EPA issued a proposed rule announcing that the SVJ serious ozone nonattainment area did not attain the 1-hour ozone National Ambient Air Quality Standard (NAAQS) by November 15, 1999, the CAA attainment deadline for serious ozone nonattainment areas, (65 FR 37926). The SVJ nonattainment area includes the counties of San Joaquin, Kern, and others.

On August 28, 2000, The California Air Resources Board (CARB) formally requested that EPA create a separate ozone nonattainment area for eastern Kern County. Based on the public's comments, the State's request and EPA analysis, the Agency proposed to revise the SVJ ozone nonattainment area by changing its boundaries to remove eastern Kern County. The SVJ nonattainment area with its revised boundaries will be reclassified by operation of law to severe.

EPA proposed to designate eastern Kern County as a new, separate ozone nonattainment area, which would keep its serious classification. That is because EPA proposed to extend the attainment deadline for the proposed East Kern County serious ozone nonattainment area from November 15, 1999 to November 15, 2001. This proposed extension was based in part on monitoring data that indicate there were no exceedances of the 1-hour ozone NAAQS during 1999 and 2000 in eastern Kern County.

- **FINAL RULE: 40 CFR PART 81, "DETERMINATION OF ATTAINMENT OF THE 1-HOUR OZONE STANDARD FOR THE PHOENIX METROPOLITAN AREA, ARIZONA AND DETERMINATION REGARDING APPLICABILITY OF CERTAIN CLEAN AIR ACT REQUIREMENTS", (66 FR 29230; MAY 30, 2001).**

In the final rule of May 30, 2001, EPA determined that the Phoenix metropolitan serious ozone nonattainment area has attained the 1-hour ozone air quality standard by the deadline required by the Clean Air Act (CAA), November 15, 1999. Based on this determination, EPA also determined that the CAA's requirements for reasonable further progress and attainment demonstrations and

for contingency measures for the 1-hour ozone standard were not applicable to the area for so long as the Phoenix metropolitan area continues to attain the 1-hour ozone standard.

- **PROPOSED RULE: 40 CFR PARTS 52 AND 81, "APPROVAL AND PROMULGATION OF AIR QUALITY IMPLEMENTATION PLANS; PENNSYLVANIA; REDESIGNATION OF THE PITTSBURGH-BEAVER VALLEY OZONE NONATTAINMENT AREA TO ATTAINMENT AND APPROVAL OF THE ASSOCIATED MAINTENANCE PLAN AND OTHER MISCELLANEOUS REVISIONS", (66 FR 29270; MAY 30, 2001).**

The EPA proposed to redesignate the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh Area) to attainment for the 1-hour ozone NAAQS. The Pittsburgh area is comprised of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland counties.

The EPA also proposed to approve the maintenance plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP) on April 9, 2001, as a revision to the Pennsylvania State implementation Plan (SIP). Approval of the maintenance plan would put into place a plan for maintaining the 1-hour ozone standard for the next 10 years in the Pittsburgh area.

In addition, EPA proposed to approve the 1990 nitrous oxides base year emissions inventory, and to convert the limited approval of Pennsylvania's New Source Review (NSR) program to full approval throughout the Commonwealth, with the exception of the 5-county Pennsylvania portion of the Philadelphia-Wilmington-Trenton ozone nonattainment area where it will retain its limited approval status until that area has an approved attainment demonstration for the 1-hour ozone standard.

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